

APR 30 2001

Before the  
Federal Communications Commission  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of Ameritech Corp., Transferor,	)	
And SBC Communications, Transferee,	)	CC Docket No. 98-141
For Consent to Transfer of Control	)	
	)	
And	)	
	)	
In the Matter of GTE Corporation, Transferor,	)	
And Bell Atlantic Corporation, Transferee,	)	CC Docket No. 98-184
For-Consent to Transfer of Control	)	
	)	

**COMMENTS OF WORLDCOM, INC. ON LETTERS FILED BY VERIZON AND  
BIRCH REGARDING MOST-FAVORED NATION CONDITION OF  
SBC/AMERITECH AND BELL ATLANTIC/GTE ORDERS**

Pursuant to the Federal Communications Commission's ("Commission") Public Notice released on March 30, 2001 (DA 01-722), WorldCom, Inc. ("WorldCom") hereby submits its comments on letters filed by Verizon Communications, Inc. ("Verizon") and Birch Telecom, Inc. ("Birch") regarding the scope of the Most Favored Nation ("MFN") provision in the Bell Atlantic/GTE Merger Order<sup>1</sup> and the SBC/Ameritech Merger Order.<sup>2</sup>

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<sup>1</sup> *In re Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, Memorandum Opinion and Order, CC Docket No. 98-184 (rel. Jun. 16, 2000) ("Bell Atlantic/GTE Merger Order").

<sup>2</sup> *In re Applications of Ameritech Corp., Transferor and SBC Communications, Inc., Transferee for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and 310(d)*

## VERIZON'S REQUEST

The March 30, 2001 Public Notice solicited comments on Verizon's February 20, 2001 letter ("*Verizon Letter*")<sup>3</sup> regarding the scope of the MFN Condition. For the reasons discussed below, WorldCom believes that Verizon's position is untenable.

In its letter, Verizon requested that the Commission review a letter issued by the Common Carrier Bureau ("*CCB Letter*").<sup>4</sup> Verizon asked that the FCC "clarify" that the Bureau "failed to consider the policy implications of interpreting the merger conditions ... and failed to take into account the specific language of the Bell Atlantic/GTE merger conditions."<sup>5</sup> Despite its reference to clarification, Verizon really contends that the Bureau incorrectly interpreted Verizon's MFN obligation to apply not only to section 251(c) arrangements, but also to provisions including arrangements related to reciprocal compensation. The *CCB Letter* correctly and clearly concludes that the MFN condition is not limited to matters covered by section 251(c).

Verizon's tortured reading of the MFN Condition is inconsistent with the plain text of the Condition and the underlying intent of the Merger Order. The first sentence of the MFN Condition states:

Subject to the Conditions specified in this Paragraph, Bell Atlantic/GTE shall make available: (1) in the Bell Atlantic Service Area to any requesting telecommunications carrier any interconnection arrangement, UNE, or provisions of an interconnection agreement (**including an entire agreement**) subject to 47 U.S.C. § 251(c) and Paragraph 39 of these Conditions

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of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules, CC Docket No. 98-141, Memorandum Opinion and Order, 14 FCC Rcd 14712 (1999) ("*SBC/Ameritech Merger Order*").

<sup>3</sup> Letter from Gordon R. Evans, Vice President Federal Regulatory, Verizon Communications, Inc., to Dorothy Attwood, Chief, Common Carrier Bureau, FCC (Feb. 20, 2001) ("*Verizon Letter*").

<sup>4</sup> Letter from Carol E. Matthey, Deputy Chief, Common Carrier Bureau, FCC, to Michael L. Shor, Swidler Berlin Friedman, LLP (Dec. 27, 2000) ("*CCB Letter*").

<sup>5</sup> *Verizon Letter* at 1.

that was voluntarily negotiated by a Bell Atlantic incumbent LEC with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), prior to the Merger Closing Date and (2) in the GTE Service Area to any requesting telecommunications carrier any interconnection arrangement, UNE, or provisions of an interconnection agreement subject to 47 U.S.C. § 251(c) that was voluntarily negotiated by a GTE incumbent LEC with a telecommunications carrier, pursuant to 47 U.S.C. § 252(a)(1), prior to the Merger Closing Date, provided that no interconnection arrangement or UNE from an agreement negotiated prior the Merger Closing Date in the Bell Atlantic Area can be extended into the GTE Service Area and vice versa.<sup>6</sup>

The MFN Condition plainly allows a requesting carrier to opt-into an “an entire agreement” negotiated pursuant to section 251(a)(1), even if it is not limited to matters involving section 251(c). The term “entire agreement” speaks for itself – there is no limitation excluding any provisions in an entire agreement from the scope of the MFN obligation. To WorldCom’s knowledge, interconnection agreements that address matters covered by section 251(c) *always* address other matters, including those covered by section 251(b) – if not reciprocal compensation, then (for example) nondiscriminatory access to telephone number, operator services, directory assistance, and directory listings or to rights-of-way. The reference in the Condition to an “entire agreement” negotiated pursuant to section 251(a)(1) is understood to include even portions of an agreement that do not address section 251(c) matters.

Any possible uncertainty is eliminated by the third sentence in the MFN Condition – a provision that Verizon studiously avoids even mentioning. This sentence states: “qualifying interconnection arrangements or UNEs shall be made available to the same extent and under

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<sup>6</sup> *Bell Atlantic/GTE Merger Order* at Appendix D, para. 32 (emphasis added).

the same rules that would apply to a request under 47 U.S.C. § 252(i) ....”<sup>7</sup> Section 252(i) is clearly the underlying basis for the MFN Condition, and as the *CCB Letter* correctly points out, the MFN Condition expands CLEC’s 252(i) opt-in rights so that CLECs may import interconnection arrangements from one state to another. Section 252(i) provides that “[a] local exchange carrier **shall make available any interconnection, service, or network element provided under an agreement approved under this section** to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.”<sup>8</sup> As is clear from its express language, section 252(i) does not limit its application exclusively to those provisions associated with section 251(c). Similarly the MFN Condition has no such limitation.

### **BIRCH’S REQUEST**

The Commission’s March 30, 2001 Public Notice also solicited comments on Birch’s March 6, 2001 letter (“*Birch Letter*”)<sup>9</sup> regarding the scope of the SBC/Ameritech MFN Condition. The Birch Letter requested that the Bureau clarify that SBC’s MFN Condition required SBC to allow Birch to opt into a provision involving reciprocal compensation. The Birch Letter presents the same issue as Verizon’s request. Given that the Bell Atlantic/GTE and SBC/Ameritech MFN Conditions are equivalent, WorldCom agrees with Birch that the SBC/Ameritech MFN Condition applies to section 251(b) provisions and in any event allows a CLEC to opt into any interconnection arrangement including any subjects not arising out of section 251(c).

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<sup>7</sup> *Id.*

<sup>8</sup> 47 U.S.C. § 252(i) (emphasis added).

The SBC/Ameritech MFN Condition is the underlying basis of the Bell Atlantic MFN Condition.<sup>10</sup> As a result, the first sentence of the SBC/Ameritech MFN Condition makes clear that it applies to “any interconnection arrangement” negotiated pursuant to section 252(a)(1). Equally important, like the Bell Atlantic/GTE MFN Condition, the SBC/Ameritech Condition requires SBC to make interconnection arrangements available “to the same extent and under the same rules that would apply to a request under 47 U.S.C. § 252(i).” As described above, the only reasonable interpretation of this MFN Condition is that it applies to all portions of an interconnection arrangement negotiated pursuant to section 252(a)(1), including portions involving reciprocal compensation.

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<sup>9</sup> Letter from John M. Ivanuska, Vice President – Regulatory & Carrier Relations, Birch Telecom, Inc., to Carol E. Matthey, Deputy Chief, Common Carrier Bureau, FCC (March 6, 2001) (“*Birch Letter*”).

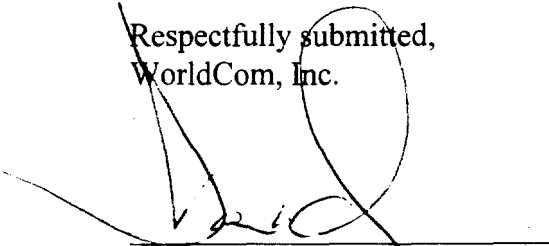
<sup>10</sup> *Bell Atlantic/GTE Merger Order* at para. 248 (“The package of conditions that the Applicants present to bolster the benefits of their proposed merger is patterned closely after the set of conditions that we adopted less than a year ago in the SBC/Ameritech Order.”).

## CONCLUSION

For the foregoing reasons, WorldCom respectfully urges the Commission to clarify that both the SBC/Ameritech and Bell Atlantic/GTE MFN Conditions apply to provisions not relating to section 251(c), including provisions regarding intercarrier compensation for Internet-bound traffic.

Dated: April 30, 2001  
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Respectfully submitted,  
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## CERTIFICATE OF SERVICE

I, Lonzena Rogers, hereby certify, that on this thirtieth day of April, 2001, I have caused to be served by United States Postal Service first class mail and hand delivery a true and correct copy of the foregoing "Comments of WorldCom, Inc." in the matter of CC Docket 98-141 and CC Docket 98-184 on the following:

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